

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:98-CV-78-GCM

JUAN CARLOS RETAYAUD, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** comes before the Court on the Petitioner’s “Motion to Proceed in Filing Rule 60(b) Supplemental Motion in Support of Petitioner Retayaud’s Rule 60(b),” filed March 9, 2007 (Doc. No. 20). For the reasons stated herein, the instant Motion is **DENIED**.

A movant must file a motion under Rule 60(b) “within a reasonable time – and for reasons (1), (2) and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.” Fed. R. Civ. P. 60(c)(1). Petitioner filed the instant Motion eleven years after he was sentenced and eight years after the Fourth Circuit Court of Appeals affirmed this Court’s denial of the Petitioner’s motions under 28 U.S.C. §2255 and under Federal Rule of Civil Procedure 59. (Doc. No. 17). Though Petitioner does not specify the provision of Rule 60(b) under which he seeks relief, this delay is in no way reasonable and certainly not within the one year requirement under Rule 60(b)(1), (2) or (3). Petitioner provides no reason for his extreme delay and thus the Motion is **DENIED** as untimely.

Signed: [September 20, 2010]

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

